

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MATTHEW D. FALLON,

Plaintiff,

v.

ACCORD XPRESS, INC., et al.,

Defendants.

Case No. 1:22-cv-01086-ADA-SAB

ORDER GRANTING MOTION TO
EXTEND SERVICE DEADLINE AND
CONTINUING SCHEDULING
CONFERENCE TO JANUARY 31, 2022

(ECF Nos. 3, 4, 5)

Plaintiff filed this action on August 25, 2022. (ECF No. 1.) A scheduling conference is currently set for November 29, 2022. (ECF No. 3.) Plaintiff has not returned service documents. On November 4, 2022, the Court ordered Plaintiff to file a status report concerning service and readiness for the scheduling conference. (ECF No. 4.) On November 11, 2022, Plaintiff filed a status report proffering he has diligently attempted service, and has attached a proof of unsuccessful service as well as text messages with the Defendant Jagdeep Singh Dhaliwal, who is also the agent for service of process of the Defendant Accord Express, Inc. (ECF No. 5.) The Court notes that the most recent attempt at service or communication appears to be October 1, 2022.

Rule 4(m) provides that “If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time.”

1 Fed. R. Civ. P. 4(m). “But if the plaintiff shows good cause for the failure, the court must extend
2 the time for service for an appropriate period.” Id. The order setting the scheduling conference
3 in this matter additionally provides that: “plaintiff shall diligently pursue service of the summons
4 and complaint and dismiss those defendants against whom the plaintiff will not pursue claims . .
5 .[and] plaintiff shall promptly file proofs of service of the summons and complaint so the Court
6 has a record of service.” (ECF No. 3 at 1.)

7 The Court shall extend the service deadline by thirty (30) days, and continue the
8 scheduling conference for a period of sixty (60) days. The Court will not grant a further
9 extension of the service deadline absent a demonstration of diligent attempts at service.

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. Plaintiff’s motion to extend the service deadline (ECF No. 5) is GRANTED;
- 12 2. The deadline for Plaintiff to complete service is extended to December 23, 2022;
- 13 3. The scheduling conference set for November 29, 2022, is CONTINUED to
14 January 31, 2022, at 11:30 a.m., in Courtroom 9; and
- 15 4. The parties shall file a joint scheduling report at least seven (7) days prior to the
16 scheduling conference.

17 IT IS SO ORDERED.

18 Dated: November 14, 2022

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20 UNITED STATES MAGISTRATE JUDGE